

This letter discusses Energy Assistance Charges and Renewable Energy Resources and Coal Technology Development Assistance Charges. See, Public Act 90-561. (This is a GIL.)

December 1, 1998

Dear Mr. Xxxxx:

This letter is in response to your letter dated June 30, 1998. We apologize for the delay in responding to your inquiry. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I have received RPU-6 Energy Assistance Charge Return for Electricity Distributors, but I believe we are not subject to this tax. The instructions indicate that the Energy Assistance Charge is an amount that a public utility, an electric cooperative or a municipal utility collects from each of its customers and we are not one of these types of organizations. The facts that are relevant to our situation are as follows:

- = The ORGANIZATION is a tax exempt organization.
- = We own a building which is occupied by tenants and used for our exempt purpose.
- = There is only one electric service (meter) coming into the building.
- = BUSINESS bills us for electric service.
- = As we only receive one bill, it requires us to estimate each tenant's share and our portion of the bill.
- = We then bill each tenant for their share of electric usage (no mark-up) plus a \$7 - \$15 administrative fee.

As you can see, our intent is not to charge for electric services delivered, but to collect the tenant's share of the BUSINESS bill. I am requesting a letter ruling on this matter as I do not believe The ORGANIZATION is subject to this tax. I thank you for your time and if you have any questions my phone number is ####.

The RPU-6 Assistance Charges Return for Electricity Distributors is used by electricity distributors to report the collection of Energy Assistance Charges and Renewable Energy Resources and Coal Technology Development Assistance Charges from their customers. Please note that neither of these charges are considered taxes. For your general information, both of these charges are also reported by natural gas distributors on Form RG-6 Assistance Charges Return for Natural Gas Distributors.

The Energy Assistance Charge, referenced in Informational Bulletin FY 98-21 (copy enclosed), is a charge collected by each public utility, electric cooperative, as defined in Section 3.4 of the Electric Supplier Act, and municipal utility, as referenced in Section 3-105 of the Public Utilities Act, that is engaged in the delivery of electricity or the distribution of natural gas within the State of Illinois upon each of its customer accounts. See 305 ILCS 20/13. Please note that municipal electric utilities and electric cooperatives may elect not to assess the Energy Assistance Charge, but then cannot be reimbursed under the Low-Income Energy Assistance Program. If a municipal electric utility or electric cooperative chooses to impose that charge, it must notify the Department in writing when it begins assessing the Energy Assistance Charge.

If your business is not a public utility, electric cooperative, or municipal utility as those terms are used in 305 ILCS 20/13, or if it is one of these entities, but does not engage in the delivery of electricity or the distribution of natural gas within the State of Illinois, then it does not have to impose the Energy Assistance Charge. However, building operators who resell electricity (whether marked-up in price or not) to their tenants are generally considered to fall within the definition of public utility for purposes of assessing Energy Assistance Charges.

The Renewable Energy Resources and Coal Technology Development Assistance Charge, referenced in Informational Bulletin FY 98-28 (copy enclosed), is a charge collected by electric and gas utilities, whether owned by investors, municipalities or cooperatives, and alternative retail electric suppliers from each of its customer accounts. See Section 6-5 of Article 6 of Public Act 90-561.

Similar to the Energy Assistance Charge provisions described above, municipal electric utilities and electric cooperatives may elect not to charge the Renewable Energy Resources and Coal Technology Development Assistance Charge. If a municipal electric utility or electric cooperative does not assess this charge, its customers are not eligible for the Renewable Energy Resources Program. If a municipal electric utility or electric cooperative chooses to impose that charge, it must notify the Department in writing when it begins assessing the Renewable Energy Resources and Coal Technology Development Assistance Charge.

If your business is not an electric or gas utility, whether owned by investors, municipalities or cooperatives, or an alternative retail electric supplier, it does not have to impose the Renewable Energy Resources and Coal Technology Development Assistance Charge. However, building operators who resell electricity (whether marked-up in price or not) to their tenants are generally considered to fall within the definition of a public utility for purposes of assessing Renewable Energy Resources and Coal Technology Development Assistance Charges from their customers.

I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Terry D. Charlton  
Associate Counsel

TDC:msk  
Encl.